



June 29, 1999

Mr. Scott Fawcett  
Legal Counsel  
Open Records Division  
Comptroller of Public Accounts  
111 East 17<sup>th</sup> Street, LBJ State Building  
Austin, Texas 78774-0100

OR99-1806

Dear Mr. Fawcett:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 125226.

The Comptroller of Public Accounts (the "comptroller") received an open records request for information pertaining to a sales and use tax audit of G.M. Houser, Inc. ("Houser"). You seek to withhold the requested information pursuant to the "law-enforcement" exception, section 552.108(a) of the Government Code.<sup>1</sup>

Section 552.108(a)(1) provides that information held by a law enforcement agency that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure if release of the information would interfere with the detection, investigation, or prosecution of crime. The comptroller is a law enforcement agency for purposes of administering the Tax Code. *A&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 678-679 (Tex. 1995). In *A&T Consultants*, the court agreed that the comptroller uses audits to further the comptroller's law enforcement objectives.

Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. See Gov't Code §§ 552.108(a), (b), .301(b)(1); see also *Ex parte Pruitt*, 551 S.W.2d 706

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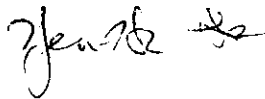
<sup>1</sup>We note that you have withdrawn your claims under sections 552.107 and 552.111 for withholding the requested information.

(Tex. 1977). You explain that the comptroller is currently auditing Houser, and that the audit is not yet complete. You further assert that release of the requested information would interfere with your ongoing criminal investigation. We therefore believe that you may withhold the requested information under section 552.108(a)(1) as release of the information "would interfere with the detection, investigation, or prosecution of crime."

We note, however, that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. *See generally* Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the basic information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/nc

Ref.: ID# 125226

Encl. Submitted documents

cc: Mr. Eric L. Stein  
Ryan & Company  
100 Congress Avenue, Suite 1900  
Austin, Texas 78701  
(w/o enclosures)